

REMARKS

Applicant has carefully considered the November 2, 2004 Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 1-12 were pending in this application. In response to the Office Action dated November 2, 2004, new claims 13-22 have been added. Care has been exercised to avoid the introduction of new matter. Adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure as, for example, the depicted embodiments and related discussion thereof in the written description of the specification. Applicant submits that the present Amendment does not generate any new matter issue. Entry of the present Amendment is respectfully solicited. It is believed that this response places this case in condition for allowance. Hence, prompt favorable reconsideration of this case is solicited.

Claims 1-12 were rejected under 35 U.S.C. § 102(b) as being anticipated over Fujii (U.S. Pat. No. 6,374,168, hereinafter “Fujii”). Applicant respectfully traverses the rejection for the reasons outlined below. Moreover, new claims 13-22 are free from the applied art for the reasons outlined below.

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention, such that the identically claimed invention is placed into the possession of one having ordinary skill in the art. *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994). Moreover, in imposing the rejection under 35 U.S.C. § 102, the Examiner is required to

specifically identify wherein an applied reference is perceived to identically disclose each feature of a claimed invention. *In re Rijckaert*, 9 F.3d 1531, 28 USPQ2d 1955 (Fed. Cir. 1993); *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481 (Fed. Cir. 1984). That burden has not been discharged. Moreover, there are significant differences between the claimed invention and the method and device disclosed by Fujii that would preclude the factual determination that Fujii identically describes the claimed inventions within the meaning of 35 U.S.C. § 102.

Fujii's seat belt system discloses a tension to a webbing that is controlled by a motor and the like in accordance with a driving operation of the driver. However, Applicant submits that both the object and control method of the present claimed subject matter are completely different from those of Fujii.

As described in the present specification, an object of the present invention is to prohibit the tension force when the tension is not necessary in order to reduce the passenger's sense of incompatibility, or in other words, reduce troublesomeness of passenger. Another object is to detect a timing for prohibiting a tension force, in which the timing is judged based on a situation with a lower degree of risk.

As one example, the timing is detected when the passenger steps on a brake to reduce the vehicle speed. The control unit is able to detect a passenger's braking operation and further prohibits the tension control, based on detection data by the obstacle detecting unit, only for a predetermined period when the canceling of the passenger's braking operation is detected. It is therefore possible to reduce the passenger's sense of incompatibility (i.e. reduce troublesomeness of the passenger).

Another example is when the passenger manipulates a winker or a gear-shift lever. When the winker or gear shift is manipulated by a passenger, the tension control is prohibited based on detection data by the obstacle detecting unit for only a predetermined period.

Yet another example is when the passenger manipulates a steering wheel or steps on an accelerator pedal. The operational control of the first pretensioner (i.e. tension control of the webbing) is prohibited following the detection of the passenger's manipulation of the steering wheel or the accelerator pedal, unless a predetermined period has passed since detection of the passenger's manipulation of the steering wheel or accelerator pedal.

In each of the preceding examples (described in further detail in the specification), the passenger's manipulation of the winker, steering wheel, accelerator pedal, gear shift or brake pedal is based on the premise that the passenger is keeping observation on the front of a passenger's vehicle (i.e. the passenger's consciousness level is high).

Independent claim 1 recites, in pertinent part, a control unit for controlling the first tension by the first pretensioner in accordance with at least one of a tension control based on detection data by the manipulated brake detecting unit and another tension control based on detection data by the obstacle detecting unit. The control unit, under the tension control based on detection data by the manipulated brake detecting unit, allows the first pretensioner to always operate when it is judged that the vehicle is braking in an emergency. Further, the control unit, under the tension control based on detection data by the obstacle detecting unit, allows the first pretensioner to operate selectively.

Independent claim 11 recites, in pertinent part, a control means for controlling the first tension by the first pretensioner in accordance with at least one of a tension control based on detection data by the manipulated brake detecting means and another tension control based on

detection data by the obstacle detecting means. The control means, under the tension control based on detection data by the manipulated brake detecting means, allows the first pretensioner to always operate when it is judged that the vehicle is braking in an emergency. Further, the control means, under the tension control based on detection data by the obstacle detecting means, allows the first pretensioner to operate selectively.

Independent claim 12 describes a method for controlling a seatbelt for a vehicle, comprising the pertinent steps of applying a first tension to the webbing under the tension control based on detection data of the manipulated amount of the brake pedal always when it is judged that the vehicle is braking in an emergency; applying another first tension to the webbing under the tension control based on detection data of the obstacle selectively; and applying a second tension to the webbing in an emergency about the vehicle to restrain the passenger.

In contrast, Fujii device controls a tension of the webbing in accordance with an operating situation of the vehicle. Fujii's basic concept is to apply a tension (tension force level) to the webbing. However, Fujii fails to disclose or remotely suggest the basic concept of the present invention that the tension control of the webbing is selectively performed, thereby reducing Troublesomeness of the passenger. Accordingly, Fujii fails to identically disclose every feature of the claimed inventions and, therefore the rejection of claims 1-12 under 35 U.S.C. § 102(b) is not legally viable and should be withdrawn.

Moreover, dependent claims 2-10 are free from the applied art in view of their dependency from independent claim 1, the patentability of which is discussed *supra*.

Newly added independent claim 14 (vehicle comprising a seatbelt apparatus) and dependent claims 15-20 are free from the applied art. It is noted that independent claim 14

comprises all of the elements of the seatbelt apparatus of claim 1 and, therefore, is free from the applied art for substantially the same reasons as argued above.

New independent claim 13 recites, in pertinent part, a webbing for restraining a passenger seated on a seat with a first tension or a second tension which is larger than the first tension, the second tension applied to the webbing in an emergency. A control unit is provided for controlling the first tension to the webbing in accordance with at least one of a tension control based on detection data by the manipulated brake detecting unit and another tension control based on detection data by the obstacle detecting unit. The control unit, under the tension control based on detection data by the manipulated brake detecting unit, always applies the first tension to the webbing when it is judged that the vehicle is braking, and the control unit, under the tension control based on detection data by the obstacle detecting unit, applies the first tension to the webbing selectively. Thus, claim 13 is free from the applied art since Fujii fails to disclose or remotely suggest the basic concept of the present invention that the tension control of the webbing is selectively performed.

New independent claim 21 recites, *inter alia*, that the control unit, under the tension control based on detection data by the obstacle detecting unit, is adapted to detect a braking operation of the passenger and prohibit the tension control for a predetermined time period, thereby reducing troublesomeness of the passenger. Applicant submits that Fujii is silent as to a control unit that is adapted to both detect a braking operation of the passenger and prohibit the tension control for a predetermined time period.

New independent claim 22 recites, in part, that the control unit, under the tension control based on detection data by the obstacle detecting unit, is adapted to detect a passenger's manipulation of the vehicle and to prevent unnecessary operation of the tension control. As

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discussed previously, Fujii's basic concept is to apply a tension (tension force level) to the webbing but does not appear to disclose any means to prevent unnecessary operation of the tension control. Accordingly, new independent claim 22 is free from the applied art.

It is believed that all pending claims are now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Brian K. Seidleck
Brian K. Seidleck
Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:idw
Facsimile: 202.756.8087
Date: February 2, 2005

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as our correspondence address.**